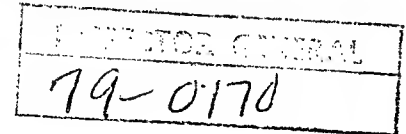


79-0101/2

OGC Has Reviewed

OGC 79-0431  
9 February 1979



MEMORANDUM FOR: Director of Central Intelligence

FROM: Anthony A. Lapham  
General Counsel

SUBJECT: CIA Implementation of Ethics in Government  
Act of 1978

REFERENCES: A. OGC Memo 78-8566 to the DCI, dated  
29 December 1978, same subject

B. DDA Memo 79-0101/1 to the DCI, dated  
22 January 1979, same subject

1. Action Requested: Your approval of the recommendations set forth in this memorandum.

2. Background: On 29 December I recommended that you appoint someone to serve as the "designated agency official" to administer the provisions of the "Ethics in Government Act of 1978," which requires, among other things, that public officials make detailed reports of their financial holdings. By memorandum to you dated 22 January, Don Wortman has recommended that you appoint me to this position, and the Inspector General has agreed. While I cannot say that the General Counsel is the only logical candidate for this position, neither can I say that it would make any better sense to designate any other Agency official, and I therefore concur in the recommendation, albeit reluctantly. If you likewise concur, it is my intention to redelegate some of the functions, as outlined below and as permitted by applicable Office of Personnel Management guidance, and this memorandum also seeks your approval of these intended redelegations.

3. In my view, implementing the Act involves essentially three functions. First, there is the administrative function. Current employees covered by the provisions of the Act must

be provided the appropriate forms for filing their statements of financial interests, as must employees at the time they enter or terminate duty, and records must be kept to ensure compliance with the reporting requirements. The reports themselves must be kept for six years. Educating employees as to these requirements also seems to me to fit within this administrative category.

4. Second, it is evident that the Act requires the performance of an investigatory function. The financial statements submitted to the Agency must be reviewed to determine if all the required information has been provided and to spot potential for any conflicts of interests. So, for example, the initial reviewer will have to look for evidence of ownership of stock in Agency contractors, or corporate parents or subsidiaries of Agency contractors. It will also be necessary at the initial review stage to obtain job descriptions of the reporting officials in order to assist in gauging the effect of reported financial interests or liabilities upon a particular employee's duties. There is no need for lawyers to be involved at this stage, any more than in other contexts in which Agency employees are called upon to identify issues of legality or propriety. As I see it, this essentially investigative function, involving verification of the completeness of the financial statements and gathering of other relevant information, could more readily and economically be performed by the Inspector General's office, and the Inspector General or his designee could be the certifying officer with respect to all those statements deemed on the basis of an initial review to raise no questions of conflict of interests. The remaining functions, involving second-stage review in doubtful cases and a resolution of any conflict questions that do arise, are the ones for which OGC's services are most naturally suited, and I would expect the General Counsel to be the certifying officer in such cases.

5. In short, while as designated agency official I would serve as ethics counselor and be responsible for the Agency's overall ethics program, including the preparation of appropriate internal regulations, much of the day-to-day responsibility would be delegated to deputy counselors whose components are better equipped to handle the necessary administrative and investigative tasks. Thus, I expect that the Deputy Director for Administration could ensure that all current, new, and departing employees are provided the requisite forms to fill out, maintain appropriate records, and provide any training necessary for the education of employees as to the requirements of the law. Second, the initial review function would fall to the Inspector General. ✓

[This should, I believe, include review, perhaps merely a spot check based upon a random selection, of financial statements currently filed under E. O. 11222 and which must continue to be filed by certain employees not covered by the new law. Although the responsibility for reviewing reports filed pursuant to the E. O. now rests with the various components, I believe the initial review under the new law would best be performed by a central investigative staff that could ensure the integrity of the entire process.] After the completion of initial review, the Inspector General would certify those statements that in his view raise no conflict of interests questions. Cases involving unresolved conflict questions would be referred for decision to the General Counsel, who would assume the role of certifying officer in such cases.

6. Recommendation: In conclusion, I concur with the recommendation of the DDA and recommend that you approve that recommendation, together with the proposed delegations of functions and responsibilities outlined in this memorandum.

[Redacted Signature Box]

Anthony A. Lapham

APPROVE:

\_\_\_\_\_  
Director of Central Intelligence

DISAPPROVE:

\_\_\_\_\_  
Date

\_\_\_\_\_  
Director of Central Intelligence